



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 48-40 Virginia Time-Share Regulations
Department of Professional and Occupational Regulation
January 12, 2015

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 623 of the 2014 Virginia Acts of Assembly, the Common Interest Community Board (Board) proposes to establish alternative purchase registration procedures.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Virginia Code § 55-362 defines alternative purchase as:

... anything valued in excess of \$100 which is offered to a potential purchaser by the developer during the developer's sales presentation and which is purchased by such potential purchaser for more than \$100, even though the purchaser did not purchase a time-share. An alternative purchase is not a time-share. A membership camping contract as defined in § 59.1-313 is not an alternative purchase. An alternative purchase shall be registered with the Board unless it is otherwise registered as a travel service under the Virginia Travel Club Act (§ 59.1-445 et seq.), and shall include, without limitation, vacation packages (howsoever denominated) and exit programs (howsoever denominated).

Currently, alternative purchases are registered through the time-share registration process. Alternative purchases are typically much less complex and have significantly lower dollar values compared to time-shares.¹ The proposed alternative purchase registration process will be less costly than the current process whereby alternative purchases are registered via the time-share process.

¹ Source: Department of Professional and Occupational Regulation

The proposed fees for the alternative purchase registration are substantially lower than the time-share registration fee: 1) \$100 rather than \$1,500 for initial application and registration, and 2) \$100 rather than \$500 for annual renewal. There are substantially fewer requirements for the alternative purchase public offering statement versus the time-share offering statement. Thus under the proposed alternative purchase registration process less staff time would be required in preparation of offering statements.

For time-share registration, Virginia Code § 55-386 requires that “The developer shall file with the Board a payment and performance bond in the sum equal to 100 percent of the estimated cost of completing all promised and incomplete units and common elements comprising the time-share project described in the time-share instrument and the public offering statement.” The proposed alternative purchase registration does not require a bond. Given the lower values and nature of alternative purchases, the Board does not believe a bond is necessary for alternative purchases.

Registration for alternative purchases has value in that the public offering disclosure statements help inform consumers and help the Board and Department monitor the industry. The proposed alternative purchase registration will substantially lower costs for developers while maintaining some consumer protection. Thus the proposed amendments likely produce a net benefit.

Businesses and Entities Affected

The approximate 100 time-share projects and related developers are affected by the proposed amendments.²

Localities Particularly Affected

The proposed amendments apply throughout the Commonwealth. Time-shares and thus alternative purchases are more common in areas frequented for vacations.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

² Data source: Department of Professional and Occupational Regulation

Effects on the Use and Value of Private Property

In that the proposed establishment of alternative purchase registration procedures will lower the cost of offering alternative purchases, developers may be induced to offer more alternative purchases than under the status quo.

Small Businesses: Costs and Other Effects

The proposed alternative purchase registration will moderately reduce costs for small developers who choose to offer alternative purchases.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments will not adversely affect small businesses.

Real Estate Development Costs

The proposed amendments will moderately reduce costs for real estate developers offering alternative purchases associated with time-shares.

Legal Mandate

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulatory action would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulatory action will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,

- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

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Town Hall ID: Action 4288 / Stage 7110